

Message Text

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SUBJECT: SENEGAL NARCOTICS LAWS

REF: STATE 170187

1. SENEGAL HAS A COMPREHENSIVE NARCOTICS CODE PROHIBITING CULTIVATION, PRODUCTION, MANUFACTURE, EXTRACTION, PREPARATION, DETENTION, OFFER, SALE, DISTRIBUTION, PURCHASE, DELIVERY OF ANY KIND, BROKERAGE, FORWARDING, TRANSIT TRANSPORT, IMPORT OR EXPORT OF "STUPIFIANTS" (DRUGS) AS WELL AS ALL AGRICULTURAL INDUSTRIAL AND COMMERCIAL OPERATIONS RELATIVE TO THE DRUGS. SPECIFIC LAW IS NUMBER 72-74 ENACTED 19 APRIL 1972.

2. MAXIMUM PENALTY FOR CONVICTION ON ANY OF THE ABOVE-MENTIONED INFRACTIONS IS IMPRISONMENT OF ONE TO FIVE YEARS PLUS A FINE OF 500,000 TO 5,000,000 FRANCS (CFA (USD 2,200 TO 23,000) OR ONE OF THESE TWO PENALTIES. THE ONLY EXCEPTIONS TO THESE MAXIMUMS INVOLVES THE ILLICIT PRODUCTION, MANUFACTURE, IMPORTATION OF EXPORTATION OF CONTROLLED SUBSTANCES IN WHICH CASE THE MAXIMUM PENALTY IS UP TO TEN YEARS IMPRISONMENT.

3. POSSESSION: (A) SENEGAL DOES NOT DIFFERENTIATE BETWEEN SUCH SUBSTANCES AS MARIJUANA AND COCAINE. ALL SUBSTANCES FALLING UNDER THE GENERIC DESCRIPTION OF "STUPIFIANTS" SUCH AS MARIJUANA, COCAINE, HEROIN, AMPHETAMINES, BARBITURATES, HEMP, UNCLASSIFIED

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ETC. ARE SUBJECT TO THE SAME MAXIMUM PENALTIES. ACCORDING TO JUDICIAL POLICE CHIEF CHEIKH NADIBOU N'DIAYE, HOWEVER, CASES INVOLVING "HARD" DRUGS SUCH AS HEROIN OR COCAINE WILL INVARIABLY DRAW MAXIMUM PENALTIES IF A CONVICTION IS OBTAINED. (B) THERE IS NO SPECIFIC AMOUNT WHICH WOULD CONSTITUTE DEFACTO CULPABILITY UNDER SENEGALESE LAW. (C) PENALTIES FOR SIMPLE POSSESSION ARE LESS SEVERE (NO IMPRISONMENT) ONLY IN THE CASE OF MARIJUANA

POSSESSION AND ONLY WHEN IT CAN BE ESTABLISHED THAT PERSONAL USE ONLY WAS INVOLVED.

4. TRAFFICKING IN ANY CONTROLLED SUBSTANCE IS SUBJECT TO SAME MAXIMUM PENALTIES CITED PARA 2 SUPRA. TRAFFICKING IN MARIJUANA FOR INSTANCE WOULD BE TREATED ON SAME BASIS AS TRAFFICKING IN COCAINE. SENEGAL DOES NOT HAVE A BAIL OR PAROLE SYSTEM. A PERSON ARRESTED ON A DRUG-RELATED OFFENSE WILL HAVE TO WAIT IN JAIL UNTIL HIS SCHEDULED COURT APPEARANCE ACCORDING TO POLICE CHIEF N'DIAYE. THERE IS NO CLEARLY DEFINED SPECIFIC AMOUNT WHICH WOULD CONSTITUTE EVIDENCE OF DRUG TRAFFICKING. UNDER SENEGALESE LAW, HOWEVER, POSSESSION F QUANTITIES OF DRUGS IN EXCESS OF PERSONAL CONSUMPTION NEEDS MAY BE CONSIDERED AS DEFAC TO EVIDENCE OF INTENT TO "SELL OR CAUSE TO BE SOLD". WITH THE EXCEPTION OF SIMPLE POSSESSION, ANY DRUG-RELATED ARREST IN SENEGAL INCLUDING CONSPIRACY TO TRAFFIC WILL BE TREATED AS A FELONY CRIME.

5. THE CULTIVATION, ELABORATION OR PRODUCTION OF CANNABIS, COCA AND/OR OPIUM POPPY IS PROHIBITED BY LAW. PENALTIES ARE AS STATED PARA TWO SUPRA. PENALTIES FOR ELABORATING CANNABIS, COCA AND/OR OPIUM POPPIES ARE THE SAME AS GIVEN FOR CULTIVATION AND PRODUCTION.

6. FINANCIAL SUPPORT FOR CULTIVATION, ELABORATION, OR TRAFFICKING IN NARCOTICS IS PROHIBITED UNDER ARTICLE 2 OF LAW UNCLASSIFIED

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72-74 (SEE PARA 1 ABOVE). ACCORDING TO CHIEF N'DIAYE, FINANCIAL INVOLVEMENT IN DRUG TRAFFICKING OR CULTIVATION/PRODUCTION IS TREATED THE SAME AS ACTUAL TRAFFICKING OR CULTIVATION AND IS SUBJECT TO THE SAME PENALTIES. SENEGAL HAS CURRENCY CONTROL LAWS GOVERNING THE EXPORT OF CURRENCY BUT THEY ARE VERY LOOSELY ENFORCED. LOCAL CURRENCY, CFA IS DIRECTLY CONVERTIBLE INTO FRENCH FRANCS.

7. THE PERIOD OF INVESTIGATION/DETENTION IN DRUG OFFENSES IS NOT DEFINED BY LAW BUT CAN BE EXPECTED TO LAST UP TO SEVERAL WEEKS IF THE ARREST IS CONTESTED. CONSULAR ACCESS IS PERMITTED UPON VERBAL REQUEST AND, ACCORDING TO A LOCAL ATTORNEY, BLANKET PERMISSION TO VISIT A PRISONER WOULD PROBABLY BE GRANTED IF THE EMBASSY SUBMITTED A FORMAL REQUEST. IN A DRUG-RELATED CASE THE EMBASSY WOULD PROBABLY BE NOTIFIED BUT THERE IS NO SET PROCEDURE WHEREBY LOCAL POLICE WOULD NOTIFY THE EMBASSY. PRE-TRIAL DETENTION PERIODS CAN LAST FROM SEVERAL WEEKS TO SEVERAL MONTHS. AFTER THE INITIAL ARREST A PRELIMINARY HEARING MUST, BY LAW, BE HELD WITHIN 48 HOURS. TRIALS THEMSELVES WOULD NOT NORMALLY LAST MORE THAN A FEW DAYS. THE REVIEW/ CONFIRMATION PROCEEDINGS CAN BE EXPECTED TO LAST A MONTH OR MORE AND THE APPELLATE PROCESS ALSO AT LEAST A MONTH. A

CASE CAN BE APPEALED IN A SENEGALESE COURT ONLY ON PROCEDURAL
GROUNDS AND NOT BASED ON EVIDENCE OR LACK OF EVIDENCE PRESENTED.
LEGAL COUNSEL WILL BE MADE AVAILABLE, AT NO COST, TO ANYONE
REQUESTING A PUBLIC DEFENDER. SENEGAL HAS AN ADEQUATE NUMBER
OF LAWYERS WHO CAN HANDLE NARCOTICS CASES BUT SINCE SUCH CASES
ARE ACTUALLY RARE IN SENEGAL, THERE IS NO PRESCRIBED OR GENERAL
FEE FOR SUCH CASES. PAROLE PER SE DOES NOT EXIST. IF HOWEVER,
A PRISONER HAS SHOWN EXEMPLARY BEHAVIOR IT IS POSSIBLE HE
WOULD HAVE ONE TO TWO THIRDS OF HIS SENTENCE DROPPED WHEREUPON
HE WOULD BE DEPORTED (IF AN ALIEN) TO HIS HOME COUNTRY. MINOR
OFFENDERS OR POSSESSORS OF SMALL AMOUNTS OF DRUGS WOULD
MOST LIKELY BE EXPELLED FROM THE COUNTRY BUT THIS PRACTICE IS
NOT RUGULARIZED AND WOULD DEPEND ON CIRCUMSTANCES OF DISCOVERY,
WHETHER SIMPLE POSSESSION INVOLVED AND BEHAVIOR OF DETAINEE(S).
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